

FILED
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3:04 pm, Sep 29, 2021

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

U.S. DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
LONG ISLAND OFFICE

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RICHARD FREDRICK KAISER, JR.,

For Online Publication Only

Plaintiff,

-against-

ORDER

19-CV-7029 (JMA) (ARL)

KILOLO KIJAKAZI,¹
Acting Commissioner of Social Security,

Defendants.

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AZRACK, United States District Judge:

Pending before the Court are the parties' cross-motions for judgment on the pleadings, (ECF Nos. 9, 11), which I referred to Magistrate Judge Lindsay for a report and recommendation ("R&R"). Judge Lindsay recommends that: (1) Plaintiff's motion be granted in part and denied in part, (2) Defendant's cross-motion be denied, and (3) the case be remanded to the Commissioner for further proceedings. (ECF No. 16.)

In reviewing a magistrate judge's report and recommendation, the Court must "make a de novo determination of those portions of the report or . . . recommendations to which objection[s][are] made." 28 U.S.C. § 636(b)(1)(C); see also Brown v. Ebert, No. 05–CV–5579, 2006 WL 3851152, at *2 (S.D.N.Y. Dec. 29, 2006). The Court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1)(C). Those portions of a report and recommendation to which there is no specific reasoned objection are reviewed for clear error. See Pall Corp. v. Entegris, Inc., 249 F.R.D. 48, 51 (E.D.N.Y. 2008).

¹ Kilolo Kijakazi became the Acting Commissioner of the Social Security Administration on July 9, 2021. Pursuant to Rule 25(d) of the Federal Rules of Civil Procedure, Kilolo Kijakazi is substituted for Acting Commissioner Andrew Saul as the defendant in this suit.

To date, no objections to the R&R have been filed, and the deadline for filing any such objections has passed. I have reviewed Judge Lindsay's R&R for clear error and, finding none, I hereby adopt Judge Lindsay's comprehensive and well-reasoned R&R as the opinion of the Court. Accordingly, the Court **GRANTS** in part and **DENIES** in part Plaintiff's motion for judgment on the pleadings, **DENIES** Defendant's cross-motion for judgment on the pleadings, and **REMANDS** the case to the Commissioner for further proceedings.

SO ORDERED.

Dated: September 29, 2021
Central Islip, New York

/s/ (JMA)
JOAN M. AZRACK
UNITED STATES DISTRICT JUDGE